

[< Previous](#)[Next >](#)

O.C.G.A. § 40-5-21

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Current through Act 6 of the 2025 Regular Session of the General Assembly but not including corrections and changes made by the Office of Legislative Counsel.

[Official Code of Georgia Annotated](#) [TITLE 40 Motor Vehicles and Traffic \(Chs. 1 – 16\)](#) [CHAPTER 5 Drivers' Licenses \(Arts. 1 – 8\)](#) [Article 2 Issuance, Expiration, and Renewal of Licenses \(§§ 40-5-20 – 40-5-39\)](#)

40-5-21. Exemptions generally.

(a) Except as provided in Article 7 of this chapter, the "Uniform Commercial Driver's License Act," the following persons are exempt from licenses under this chapter:

- (1) Any employee of the United States government while operating a motor vehicle owned by or leased to the United States government and which is being operated on official business, unless such employee is required by the United States government or any agency thereof to have a state driver's license;
- (2) A nonresident who has in his or her immediate possession a valid driver's license issued to him or her in his or her home state, country, or political subdivision of a foreign country; provided, however, that such person would otherwise satisfy all requirements to receive a Georgia driver's license; and provided, further, that in the case of a driver's license issued by the driver's licensing authority of a foreign country or political subdivision of a foreign country, a law enforcement officer may consult such person's passport or visa to verify the validity of such license, if available;
- (3) A nonresident on active duty in the armed forces of the United States who has a valid license issued by his or her home state, and such nonresident's spouse or dependent son or daughter who has a valid license issued by such person's home state;
- (4) Any person on active duty in the armed forces of the United States who has in his or her immediate possession a valid license issued in a foreign country or political subdivision of a foreign country by the armed forces of the United States, for a period of not more than 45 days from the date of his or her return to the United States;
- (5) Any inmate or resident patient of a state, county, or municipally owned institution who drives a vehicle while on the grounds of such institution and while accompanied by and under the direct personal supervision of a qualified driving instructor or of some other person duly authorized in writing to so accompany and supervise such inmate or resident patient;



Document:

O.C.G.A. § 40-5-21

(7) Any inmate of a state, county, or municipal prison, correctional institution, or jail while operating a motor vehicle owned by or leased to the state, county, or municipality and being operated with the written approval of the warden or superintendent and in such manner and for such purpose as may be specified by the warden or superintendent, provided that such inmate, within the 60 day period prior to the grant of written authority, has passed the vision, written, and driving tests required for licensing a citizen to operate such motor vehicle. The department shall give such tests and issue a certificate, without charge therefor, to any inmate passing such tests;

(8) A member of the reserve components of the armed forces of the United States while operating a motor vehicle owned by or leased to the United States government and being operated in accordance with the duties of such member as a member of the reserve components of the armed forces;

(9) Any person seeking to obtain a driver's license while taking the driving examination for such license accompanied by a driver license examiner of the department or a certified examining agent of the department;

(10) Any migrant farm worker who works in this state less than 90 days in any calendar year and who possesses a valid driver's license issued by another state;

(11) Any resident who is 15 years of age or over while taking actual in-car training in a training vehicle other than a commercial motor vehicle under the direct personal supervision of a driving instructor when such driving instructor and training vehicle are licensed by the department in accordance with the provisions of Chapter 13 of Title 43, "The Driver Training School and Commercial Driver Training School License Act." As used in the previous sentence, the term "commercial motor vehicle" shall have the meaning specified in Code Section 40-5-142. All vehicles utilized for the in-car training authorized under this paragraph shall be equipped with dual controlled brakes and shall be marked with signs in accordance with the rules of the department clearly identifying such vehicles as training cars belonging to a licensed driving school. A driving instructor shall test the eyesight of any unlicensed person who will be receiving actual in-car training prior to commencement of such training, and no unlicensed driver shall receive in-car training unless such person has at least the visual acuity and horizontal field of vision as is required for issuance of a driver's license in subsection (c) of Code Section 40-5-27;

(12) Any person while operating a personal transportation vehicle:

(A) On any way publicly maintained for the use of personal transportation vehicles by the public and no other types of motor vehicles in accordance with a local ordinance adopted pursuant to Part 3 or 6 of Article 13 of Chapter 6 of this title; or

(B) When crossing a street or highway used by other types of motor vehicles at a location designated for such crossing pursuant to subsection (d) of Code Section 40-6-331 or pursuant to a PTV plan authorized by a local authority as described in Part 6 of Article 13 of Chapter 6 of this title; and

(13) A fully autonomous vehicle with the automated driving system engaged or the operator of a fully autonomous vehicle with the automated driving system engaged.

(b) Notwithstanding any contrary provisions of Code Section 40-5-20 or subsection (a) of this Code section, a nonresident of this state who is attending a school in this state shall be exempt from the driver's licensing requirements of this chapter if and only if:

(1) He or she is at least 16 years of age and has in his or her immediate possession a valid license issued to him or her in his or her home state or country; provided, however, that any

Document:

O.C.G.A. § 40-5-21

(2) He or she is currently enrolled or was enrolled during the immediately preceding period of enrollment in a school in this state, has paid for the current period of enrollment or paid for the immediately preceding period of enrollment the tuition charged by the school to nonresidents of Georgia, and has in his or her possession proof of payment of such tuition for such current or immediately preceding period of enrollment.

History

Ga. L. 1937, p. 322, art. 4, § 1; Ga. L. 1939, p. 135, § 9; Code 1933, § 68B-202, enacted by Ga. L. 1975, p. 1008, § 1; Ga. L. 1977, p. 307, § 1; Ga. L. 1978, p. 931, § 1; Ga. L. 1978, p. 2189, § 1; Code 1981, § 40-5-21.1, enacted by Ga. L. 1983, p. 638, § 2; Ga. L. 1989, p. 519, § 5; Ga. L. 1990, p. 2048, § 4; Ga. L. 1992, p. 2785, § 4; Ga. L. 1994, p. 478, § 1; Ga. L. 1996, p. 1624, § 6; Ga. L. 1997, p. 760, § 9; Ga. L. 2000, p. 951, § 5-4; Ga. L. 2001, p. 184, §§ 2-1, 3-1; Ga. L. 2004, p. 67, § 2; Ga. L. 2005, p. 334, § 17-3/HB 501; Ga. L. 2008, p. 589, § 1/HB 969; Ga. L. 2008, p. 1154, § 2/SB 488; Ga. L. 2014, p. 745, § 8/HB 877; Ga. L. 2016, p. 767, § 3/SB 320; Ga. L. 2017, p. 549, § 2/SB 219; Ga. L. 2017, p. 774, § 40/HB 323; Ga. L. 2020, p. 199, § 2-3/HB 463.

▼ Annotations

Notes

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2001, "Georgia" was deleted preceding "Uniform Commercial Driver's License Act" in subsection (a).

Editor's notes.

Ga. L. 1997, p. 760, § 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Teen-age and Adult Driver Responsibility Act.'"

Ga. L. 1997, p. 760, § 27, provides that the amendment made by the Act to this Code section shall apply to offenses committed on or after July 1, 1997, and shall not apply to offenses committed prior to that date.

JUDICIAL DECISIONS

Sentence void as outside punitive parameters. —

App. 391, 427 S.E.2d 861, 1993 Ga. App. LEXIS 162 (1993).

Penalty for permitting unlicensed person to drive car. —

Sentence of six months in jail, six months on probation, and a fine of \$1,000 for permitting an unlicensed person to drive a car did not constitute cruel and unusual punishment. Means v. State, 255 Ga. 537, 340 S.E.2d 612, 1986 Ga. LEXIS 629 (1986).

Mexican driver had no standing to challenge driver's license requirement. —

Driver with a Mexican driver's license did not have standing to challenge O.C.G.A. § 40-5-20 as conflicting with the 1943 Convention on the Regulation of Inter-American Automotive Traffic because the Mexican did not have an international license as required by the Convention and O.C.G.A. § 40-5-21(a)(2) and the license the Mexican produced did not meet the requirements of the Convention. Medina v. State, 312 Ga. App. 399, 718 S.E.2d 323, 2011 Ga. App. LEXIS 966 (2011).

Detention based on lack of driver's license was proper. —

Trial court properly denied the defendant's motion to suppress because the defendant admitted to the police officer that the defendant had no visa or passport, and that the only documentation the defendant could present was a Mexican driver's license written in Spanish and the Mexican consulate card; thus, the police officer had probable cause to arrest the defendant for driving without a license, and the arrest was lawful. Garcia-Carrillo v. State, 322 Ga. App. 439, 746 S.E.2d 137, 2013 Ga. App. LEXIS 541 (2013).

Evidence insufficient for driving without a license. —

Evidence was insufficient to support the defendant's conviction for driving without a driver's license as the state failed to present any written record at trial or at the hearing on the motion for a new trial showing that the defendant's driving privileges had in fact been suspended and the defendant presented evidence at the hearing on the motion for a new trial that no such suspension existed and that the defendant's Florida license was valid in Georgia. Williams v. State, 336 Ga. App. 442, 784 S.E.2d 808, 2016 Ga. App. LEXIS 201 (2016).

Opinion Notes

OPINIONS OF THE ATTORNEY GENERAL

Go-cart is a motor vehicle;

the operator of a go-cart must be licensed; the go-cart must be registered, inspected annually, and equipped with headlights, stop lights, and turn signals. 1969 Op. Att'y Gen. No. 69-194.

Nonresident 16-year-old student. —

Nonresident student is not required to obtain a Georgia driver's license in order to operate a vehicle on the public roads and highways so long as the student is at least 16

Research References & Practice Aids

Cross references.

Reciprocal recognition of driver's licenses issued in other territories, Convention on Road Traffic (1949); 3 U.S.T. 3008; T.I.A.S. 2487; 125 UNTS 22.

Law reviews.

For article commenting on the 1997 amendment of this Code section, see 14 Georgia St. U.L. Rev. 203 (1997).

For note on the 2001 amendment to this Code section, see 18 Georgia St. U.L. Rev. 205 (2001).

For article on the 2017 amendment of this Code section, see 34 Georgia St. U.L. Rev. 231 (2017).

For annual survey on commercial transportation, see 73 Mercer L. Rev. 47 (2021).

RESEARCH REFERENCES

Am. Jur. 2d.

7A Am. Jur. 2d, Automobiles and Highway Traffic, § 108 et seq.

C.J.S.

60 C.J.S., Motor Vehicles, § 325 et seq.

ALR.

Applicability of state or municipal traffic or vehicle regulations to those engaged in handling United States mail, 18 A.L.R. 1169.

Hierarchy Notes:

O.C.G.A. Title 40

O.C.G.A. Title 40, Ch. 5

O.C.G.A. Title 40, Ch. 5, Art. 2

Document:

O.C.G.A. § 40-5-21



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